

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

FILED BY *106* D.C.
05 OCT 26 AM 9:18

THOMAS M. GOULD
CLERK, U.S. DISTRICT COURT
W.D. OF TENNESSEE

ELIZABETH A MCNEILL,)
)
Plaintiff,)
)
v.)
)
THE TRAVELERS INSURANCE)
COMPANY and CNL ROSE)
ACQUISITION CORPORATION,)
)
Defendant.)

NO. 05-2727 B/An

ORDER DENYING PLAINTIFF'S EMERGENCY MOTION FOR AN ORDER
REQUIRING DEFENDANT TO MEDIATE

Before the Court is Plaintiff's Emergency Motion for Order Requiring Travelers to Mediate filed on October 19, 2005. United States District Judge J. Daniel Breen referred this matter to the United States Magistrate Judge for determination and/or report and recommendation. For the following reasons, Plaintiff's Motion is **DENIED**.

Background

This action was filed on September 30, 2005, apparently as part of an ongoing controversy involving two other cases, both of which are pending in the Circuit Court of Tennessee for the Thirtieth Judicial District. On October 14, 2005, Circuit Judge D'Army Bailey granted Plaintiff's Motion for an order requiring mediation in one of the circuit court cases. Plaintiff filed the instant Motion in an attempt to force Defendant Travelers to also participate in this mediation because Plaintiff claims that all three cases "are all so intertwined and interrelated that it is virtually impossible to separate one from the other without artificially constructing

This document entered on the docket sheet in compliance
with Rule 58 and/or 79(a) FRCP on 10-26-05

14

binders.” Pl.’s Mtn at 2.

Analysis

Plaintiff’s request for mediation at this time is premature. The Defendant Travelers Indemnity Company was served on October 4, 2005, and has yet to have an opportunity to respond to Plaintiff’s complaint nor has any discovery between the parties taken place concerning the claims in the instant case.¹ In addition, ordering Defendant to participate in mediation at this stage would unfairly prejudice the Defendant by forcing it to incur costs and expenses necessary to the mediation in which it could not meaningfully participate.

Therefore, Plaintiff’s Motion for an Order Requiring Defendant Travelers to participate in the state ordered mediation is **DENIED**.

IT IS SO ORDERED.



S. THOMAS ANDERSON
UNITED STATES MAGISTRATE JUDGE

Date: October 24, 2005

¹The Defendant states in its Response that it is improperly styled as The Travelers Insurance Company in the Complaint.



Notice of Distribution

This notice confirms a copy of the document docketed as number 14 in case 2:05-CV-02727 was distributed by fax, mail, or direct printing on October 26, 2005 to the parties listed.

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Honorable J. Breen
US DISTRICT COURT